

STEVENS, Mr. WARNER, Mr. COCHRAN, Mr. GRAMM, Mr. SARBANES, Mr. BENNETT, Mr. DODD, Mr. HAGEL, Mr. KERRY, Mr. BRYAN, Mr. JOHNSON, Mr. MACK, and Mr. BUNNING):

S. Res. 41. A resolution expressing the gratitude of the United States Senate for the service of Francis L. Burk, Jr., Legislative Counsel of the United States Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 42. A resolution relating to the retirement of David G. Marcos; considered and agreed to.

S. Res. 43. A resolution relating to the retirement of Thomas G. Pellikaan; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. BENNETT, Mr. MOYNIHAN, Mr. CHAFEE, Mr. KOHL, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. SMITH of Oregon, Mr. DASCHLE, Ms. SNOWE, Mr. REID, Mr. GORTON, Mr. BRYAN, Mr. MCCONNELL, Mr. CLELAND, Mr. DOMENICI, Mr. TORRICELLI, Mr. CAMPBELL, Mr. WYDEN, Mrs. LINCOLN, Mr. KERRY, Mr. KERREY, Mr. SCHUMER, Mr. DURBIN, Mrs. MURRAY, Mr. WELLSTONE, Mr. BREAUX, Ms. MIKULSKI, Mr. DORGAN, Mr. BAUCUS, Mr. REED, Ms. LANDRIEU, Mr. KENNEDY, Mr. LEVIN, Mr. ROCKEFELLER, Mr. ROBB, Mr. INOUE, and Mr. AKAKA):

S. Res. 44. A resolution relating to the censure of William Jefferson Clinton; to the Committee on Rules and Administration.

By Mr. HUTCHINSON (for himself, Mr. WELLSTONE, Mr. MACK, Mr. FEINGOLD, Mr. ABRAHAM, Mr. LEAHY, Mr. HELMS, Mr. TORRICELLI, Mr. LOTT, Mr. INHOFE, Mr. SESSIONS, Mr. ASHCROFT, Mr. DEWINE, Mr. KYL, Mr. BROWNBACK, and Mr. LUGAR):

S. Res. 45. A resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 46. A resolution relating to the retirement of William D. Lackey; considered and agreed to.

By Mr. MURKOWSKI (for himself, Mr. LOTT, Mr. DASCHLE, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. CONRAD, Mr. DEWINE, Mr. ENZI, Mr. GRASSLEY, Mr. LAUTENBERG, Mr. MACK, Ms. MIKULSKI, Mr. SMITH of Oregon, Mr. TORRICELLI, and Mr. HELMS):

S. Res. 47. A resolution designating the week of March 21 through March 27, 1999, as "National Inhalants and Poisons Awareness Week"; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. CLELAND):

S. Con. Res. 10. A concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States; to the Committee on Armed Services.

By Mr. CAMPBELL (for himself, Mr. CONRAD, Mr. BROWNBACK, Mrs. HUTCHISON, Mr. FRIST, Mr. GRAMM, Ms. LANDRIEU, and Mr. HUTCHINSON):

S. Con. Res. 11. A concurrent resolution expressing the sense of Congress with respect to the fair and equitable implementation of the amendments made by the Food Quality Protection Act of 1996; to the Committee on Agriculture, Nutrition, and Forestry.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 426. A bill to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

### KAKE TRIBAL CORPORATION PUBLIC INTEREST LAND EXCHANGE ACT

Mr. MURKOWSKI. Mr. President, today I rise to introduce two similar bills both of which passed the Senate last year with unanimous consent. One of these bills amends the Alaska Native Claims Settlement Act (ANCSA), to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, a village corporation created under that Act. The other bill provides for a similar land exchange between the Secretary and the Kake Tribal Corporation. Both of these bills will allow the Kake Tribal and Huna Totem Corporations to convey land needed as municipal watersheds in their surrounding communities to the Secretary in exchange for other Forest Service lands.

Enactment of these bills will meet two objectives. First, the two corporations will finally be able to fully recognize the economic benefits promised to them under ANCSA. Second, the watersheds that supply the communities of Hoonah, Alaska and Kake, Alaska will be protected in order to provide safe water for those communities.

The legislation I offer today clarifies several issues that were raised during the Committee hearings and mark-up last year. First, the legislation directs that the subsurface estates owned by Sealaska Corporation in the Huna and Kake exchange lands are exchanged for similar subsurface estates in the conveyed Forest Service lands. Second the substitute clarifies that these exchanges are to be done on an equal value basis. Both the Secretary of Agriculture and the corporations insisted on this provision. I believe this is critical, Mr. President, because both these bills provide that any timber derived from the newly acquired Corporation lands be processed in-state, a requirement that does not currently exist on the watershed lands the corporations are exchanging. Therefore, if this exchange simply were done on an acre-for-acre basis it is likely that the acreage the corporations are exchanging, without any timber export restrictions, would have a much higher value than what they would get in return. It is for this reason that these exchanges will not be done on an acre-for-acre basis. If it ends up that either party has to receive additional compensation, either in additional lands or in cash to equalize the value, then it is my hope this will be done in an expeditious way to allow the exchange to move forward within the times specified in the legislation.

I believe these two pieces of legislation are in the best interest of the na-

tive corporations, the Alaska communities where the watersheds are located, and the Federal government. It is my intention to try and pass these bills out of the Senate Energy and Natural Resources Committee at the earliest opportunity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 426

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Kake Tribal Corporation Public Interest Land Exchange Act."

### SEC. 2 AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding at the end thereof:

### "SEC. . KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal land identified by Kake Tribal Corporation pursuant to subsection (c): Lands exchanged pursuant to this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled Attachment A, and are further described as follows:

MUNICIPAL WATERSHED, COPPER RIVER MERIDIAN, T56S, R72E	
Section	Approximate acres
13 .....	82
23 .....	118
24 .....	635
25 .....	640
26 .....	346
34 .....	9
35 .....	349
36 .....	248
Approximate total .....	2,427

"(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachments B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of

Kake, Alaska, to provide for management of the municipal watershed.

"(f) **TIMBER MANUFACTURING; EXPORT RESTRICTION.**—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section shall not be exported as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) **RELATION TO OTHER REQUIREMENTS.**—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) **MAPS.**—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if there is any discrepancy between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land."

By Mr. ABRAHAM (for himself, Mr. DOMENICI, Mr. THOMPSON, Mr. LOTT, Mr. ALLARD, Mr. HAGEL, Mr. SESSIONS, Mr. HUTCHINSON, Mr. COCHRAN, Mr. BURNS, Mr. MCCAIN, Mr. INHOFE, Mr. DEWINE, Mr. BOND, Mr. SMITH of Oregon, Mr. ENZI, Mr. HELMS, and Mr. NICKLES):

S. 427. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1997, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

#### THE MANDATES INFORMATION ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise today with 14 of my Colleagues, including the Chairmen of the Senate Small Business, Commerce, Government Affairs and Budget Committees, as well as the Majority Leader, in introducing vital legislation in protecting our nation's businesses from ill-thought government mandates. The Mandates Information Act of 1999. This bill in my view furthers the cause of careful deliberation in this, the greatest deliberative body in the world. It will force Members of Congress to carefully consider all aspects of potential legislation containing mandates affecting consumers, workers, and small businesses.

We have been working towards final passage of this bill for quite some time, Mr. President, as we introduced very similar legislation in the last Congress. I wish to thank Chairmen THOMPSON and DOMENICI for their tireless leadership in shepherding this through their two Committees last Congress. I am only sorry we did not have sufficient time to bring it to the floor before adjournment. With their support and leadership in this Congress, I believe we can bring it to the floor for quick

consideration and move to Conference with the House.

And too it is the House that I also wish to extend my thanks and respect. Under the careful leadership of Representatives PORTMAN and CONDIT, and the very helpful support of the Speaker, the House version of the Mandates Information Act, H.R. 350, easily passed the House on Wednesday with a broad, bipartisan majority of 274 to 194. Their conscientious sponsorship of the bill allowed it to quickly pass through Committee, and to avoid being watered down by unneeded amendments. I offer my thanks and respect for their efforts.

Mr. President, this is not a new idea, but one that builds upon the important work of the 104th Congress when we passed the Unfunded Mandates Reform Act of 1995. That legislation required the Congressional Budget Office to make two key estimates with respect to any bill reported out of committee: First, whether the bill contains intergovernmental mandates with an annual cost of \$50 million or more; and, second, whether the bill contains private sector mandates with an annual cost of \$100 million or more. The 1995 act also established a point of order against bills meeting the \$50 million cost threshold for intergovernmental mandates. Although the point of order can be waived by a simple majority vote, it encourages Congress to think carefully before imposing new intergovernmental mandates.

The 1995 act did not apply its point of order to private sector mandates. This was understandable, given the bill's focus on intergovernmental mandates. But States and localities are not alone in being affected by Federal mandates. Consumers, workers, and small businesses also are affected when the Federal Government passes along the costs of its policies. This is why the Mandates Information Act of 1997 will apply a point of order to bills meeting the \$100 million cost threshold for private sector mandates, while also directing the CBO to prepare a "Consumer, Worker, and Small Business Impact Statement" for any bill reported out of committee.

These reforms are necessary in my view, Mr. President, because the 1995 Act, while effective in its chosen sphere of intergovernmental mandates, does not contain the necessary mechanisms to force Congress to think seriously about the wisdom of proposed mandates on the private sector. This leaves our private sector faced with the same dilemma once faced by our States and localities: Congress does not give full consideration to the costs its mandates impose. Focusing almost exclusively on the benefits of unfunded mandates, Congress pays little heed to, and sometimes seems unaware of, the burden that unfunded mandates impose on the very groups they are supposed to help.

Unfunded mandate costs by definition do not show up on Congress' balance ledger. But, as President Clinton's

Deputy Treasury Secretary Lawrence Summers has written, "[t]here is no sense in which benefits become 'free' just because the government mandates" them. Congress has merely passed the costs on to someone else.

And that "someone" is the American people. As economists from Princeton's Alan Krueger to John Holohan, Colin Winterbottom, and Sheila Zedlewski of the Urban Institute agree, the costs of unfunded mandates on the private sector are primarily borne by three groups: consumers, workers, and small businesses.

What forms do these costs take? For consumers, mandate costs take the form of higher prices for goods and services, as unfunded mandates drive up the cost of labor.

For workers, the costs of unfunded mandates often take the form of significantly lower wages. According to the Heritage Foundation, a range of independent studies indicates that some 88 percent of the cost of private sector mandates are shifted to workers in the form of lower wages.

And mandates can cause workers to lose their jobs altogether. Faced with uncontrollable increases in employee costs, our job creators too often find that they can no longer afford to retain their full complement of workers. The Clinton health care mandate, for example, would have resulted in a net loss of between 200,000-500,000 jobs, according to a study conducted by Professor Krueger.

Small businesses and their potential employees also suffer. Mandates typically apply only to businesses with at least a certain number of employees. As a result, small businesses have a powerful incentive not to hire enough new workers to reach the mandate threshold. As the Wall Street Journal recently noted, "The point at which a new [mandate] kicks in \* \* \* is the point at which the [Chief Financial Officer] asks 'Why grow?'"

That question is asked by small businesses all over the country, but let me cite one example from my State. Hasselbring/Clark is an office equipment supplier in Lansing, MI. Noelle Clark is the firm's treasurer and secretary. Mindful of the raft of mandates whose threshold is 50 employees, Ms. Clark reports that lately "we have hired a few temps to stay under 49." Thus, unfunded mandates not only eliminate jobs, but also prevent jobs from being created.

Much as Members of Congress may wish it were not so, mandates have a very real cost. This does not mean that all mandates are bad. But it does mean that Congress should think very carefully about the wisdom of a proposed mandate before imposing it.

Such careful thinking, Mr. President, is the goal of the Mandates Information Act of 1999. Just as the Unfunded Mandates Reform Act of 1995 protects State and local governments from hasty decisionmaking with respect to proposed intergovernmental mandates,

the Mandates Information Act would protect consumers, workers, and small businesses from hasty decisionmaking with respect to proposed private sector mandates. It would do so, in essence, by extending the reforms of the 1995 act to private sector mandates.

The bill I introduce today would build on the 1995 act's reforms in two ways. First, to give Congress more complete information about the impact of proposed mandates on the private sector, my bill directs CBO to prepare a "Consumer, Worker, and Small Business Impact Statement" for any bill reported out of Committee. This statement would include analyses of the bill's private sector mandates' effects on the following: First, consumer prices and [the] actual supply of goods and services in consumer markets; second, worker wages, worker benefits, and employment opportunities; and third, the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

But providing Congress with more complete information about the impact of proposed private sector mandates will not guarantee that it pays any attention to it. This we know from experience. In 1981, Congress enacted the State and Local Government Cost Estimate Act, sponsored by Senator Sasser. Pursuant to that act, CBO provided Congress with estimates of the cost of intergovernmental mandates in bills reported out of committee. But Congress routinely ignored this information. It did so because the 1981 act had no enforcement mechanism to force Congress to consider the CBO estimates. As Senator Sasser himself explained in introducing a follow-up bill in 1993, "[t]he problem [with the 1981 act], it has become clear, is that this yellow caution light has no red light to back it up."

To supply that "red light," Senator Sasser's Mandate Funding Act of 1993 contained a point of order. Of course, the Unfunded Mandates Reform Act of 1995 likewise contained a point of order, which is why it succeeded where Senator Sasser's 1981 act had failed.

The Mandates Information Act of 1999 will provide this red light for proposed private sector mandates. It contains a point of order against any bill whose direct private sector mandates exceed the \$100 million threshold set by the 1995 act. Like the 1995 act's point of order against intergovernmental mandates, the 1997 bill's point of order can be waived by a simple majority of Members. Thus it will not stop Congress from passing bills it wants to pass. It is here, Mr. President, that I wish to thank Chairman THOMPSON and DOMENICI for the excellent revisions of the mandates language offered during the Government Affairs mark-up of the Mandates Information Act of 1997. We have incorporated those changes in this bill and believe they greatly strengthen the legislation, including making it very clear that the point of order only applies to direct mandates

upon the private sector that exceed \$100 million.

It is that point of order which will serve the vital purpose to ensure Congress does not ignore the information contained in the Consumer, Worker, and Small Business Impact Statement. It will do so by allowing any Member to focus the attention of the entire House or Senate on the impact statement for a particular bill.

The Mandates Information Act of 1999 will provide Congress with more complete information about proposed mandates' effects on consumers, workers, and small businesses. It will also ensure that Congress actually considers this information before reaching a judgment about whether to impose a new mandate. The result, Mr. President, will be focused, high-quality deliberation on the wisdom of private sector mandates.

Because of the success of the 1995 act, Congress is now much more careful to consider the interests of State and local governments in making decisions about unfunded mandates. But Congress must be just as careful to consider the interests of consumers, workers, and small businesses in making such decisions. This bill will ensure that care, helping produce better legislation; legislation that imposes a lighter burden on working Americans.

Mr. President, I will include in the RECORD the following sample of letters from small business groups supporting the bill along with a list of groups that have expressed their support for it.

Mr. President, the support for this legislation is broad and deep. It is needed to protect our small businesses against mandates which have not been fully analyzed and which harm these businesses in ways that Congress may never have intended. But, Mr. President, I believe they can best argue for the need for this bill.

Therefore, I call on my colleagues to join us in cosponsoring this important legislation, and to move it through Committee and to the floor as quickly as possible. It is necessary, it is wise, and it is fair. Mr. President, I ask unanimous consent that the text of the legislation as well as a section-by-section summary of the bill, a list of groups in support of the bill, letters of support from the U.S. Chamber of Commerce, the Small Business Survival Committee and the Competitive Enterprise Institute also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 427

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Mandates Information Act of 1999".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) before acting on proposed private sector mandates, Congress should carefully con-

sider their effects on consumers, workers, and small businesses;

(2) Congress has often acted without adequate information concerning the costs of private sector mandates, instead focusing only on their benefits;

(3) the costs of private sector mandates are often borne in part by consumers, in the form of higher prices and reduced availability of goods and services;

(4) the costs of private sector mandates are often borne in part by workers, in the form of lower wages, reduced benefits, and fewer job opportunities; and

(5) the costs of private sector mandates are often borne in part by small businesses, in the form of hiring disincentives and stunted growth.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to improve the quality of Congress's deliberation with respect to proposed mandates on the private sector, by—

(A) providing Congress with more complete information about the effects of such mandates; and

(B) ensuring that Congress acts on such mandates only after focused deliberation on their effects; and

(2) to enhance the ability of Congress to distinguish between private sector mandates that harm consumers, workers, and small businesses, and mandates that help those groups.

#### SEC. 4. FEDERAL PRIVATE SECTOR MANDATES.

(a) IN GENERAL.—

(1) ESTIMATES.—Section 424(b) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)) is amended by adding at the end the following:

"(4) ESTIMATE OF INDIRECT IMPACTS.—

"(A) IN GENERAL.—In preparing estimates under paragraph (1), the Director shall also estimate, if feasible, the impact (including any disproportionate impact in particular regions or industries) on consumers, workers, and small businesses, of the Federal private sector mandates in the bill or joint resolution, including—

"(i) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on consumer prices and on the actual supply of goods and services in consumer markets;

"(ii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on worker wages, worker benefits, and employment opportunities; and

"(iii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

"(B) ESTIMATE NOT CONSIDERED IN DETERMINATION.—The estimate prepared under this paragraph shall not be considered in determining whether the direct costs of all Federal private sector mandates in the bill or joint resolution will exceed the threshold specified in paragraph (1)."

(2) POINT OF ORDER.—Section 424(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)(3)) is amended by adding after the period "If such determination is made by the Director, a point of order under this part shall lie only under section 425(a)(1) and as if the requirement of section 425(a)(1) had not been met."

(3) THRESHOLD AMOUNTS.—Section 425(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(a)(2)) is amended by striking "Federal intergovernmental mandates by an amount that causes the thresholds specified in section 424(a)(1)" and inserting "Federal mandates by an amount that causes the thresholds specified in section 424 (a)(1) or (b)(1)".

(4) APPLICATION RELATING TO APPROPRIATIONS COMMITTEES.—Section 425(c)(1)(B) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(c)(1)(B)) is amended—

(A) in clause (i) by striking “intergovernmental”;

(B) in clause (ii) by striking “intergovernmental”;

(C) in clause (iii) by striking “intergovernmental”; and

(D) in clause (iv) by striking “intergovernmental”.

(5) APPLICATION RELATING TO CONGRESSIONAL BUDGET OFFICE.—Section 427 of the Congressional Budget Act of 1974 (2 U.S.C. 658f) is amended by striking “intergovernmental”.

(b) EXERCISE OF RULEMAKING POWERS.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

This Act may be cited as the “Mandates Information Act of 1999.”

##### SEC. 2. FINDINGS

Finds that Congress should consider the effects of proposed mandates on consumers, workers and small businesses, and that Congress has often acted on mandates while knowing their benefits but not their costs.

##### SEC. 3. PURPOSES

The purposes of this Act are:

To improve the quality of Congress’ deliberation on proposed private sector mandates by providing Congress with more complete information;

Ensuring that Congress acts on such mandates only after focused deliberation on their effects; and

To enhance the ability of Congress to distinguish between helpful and harmful private sector mandates.

##### SEC. 4. FEDERAL PRIVATE SECTOR MANDATES

###### (a) In General—

(1) Estimates—Directs the Congressional Budget Office, if feasible, to estimate the impact of private sector mandates on consumers, workers, and small businesses, including the impact on—

Consumer prices and the supply of goods and services;

Worker wages, benefits, and employment opportunities; and

The hiring practices, expansion and profitability of businesses with 100 or fewer employees.

The estimate prepared under this paragraph shall not be considered in determining whether the direct costs of all Federal private sector mandates in the bill or joint resolution exceed the \$100 million threshold.

(2) Point of Order—Provides that if the Congressional Budget Office is unable to estimate the cost of private sector mandates in a bill or joint resolution, a point of order will still lie against consideration of that bill or joint resolution.

(3) Threshold Amounts—Exempts funded private sector mandates from a point of order.

(4) Application to Appropriations—Extends the point of order only to appropriations bills only if a legislative provision that includes a Federal private sector mandate is:

Contained in an appropriations bill or conference report; or

Contained in an amendment to an appropriations bill; or

Amendments in disagreement between the two Houses to an appropriations bill.

(5) Amendments—Requires the Congressional Budget Office, when practicable, to estimate the direct costs of a Federal private sector mandate contained in an amendment at the request of any Senator.

(b) Exercise of Rulemaking Powers—States that the Act is enacted as an exercise of the rulemaking power of the Senate and House of Representatives under their constitutional right to change such rules at any time.

#### ORGANIZATIONS SUPPORTING THE MANDATES INFORMATION ACT OF 1999

##### NATIONAL ORGANIZATIONS

The United States Chamber of Commerce, National Federation of Independent Business, National Association for the Self-Employed, National Association of Wholesaler-Distributors, National Retail Federation, Small Business Survival Committee, Associated Builders and Contractors, American Farm Bureau Federation, National Association of Manufacturers, National Association of Home Builders, National Restaurant Association, National Roofing Contractors Association, Citizens for a Sound Economy, Heritage Foundation, Competitive Enterprise Institute

##### MICHIGAN ORGANIZATIONS

Associated Underground Contractors, Inc.; Grand Rapids Area Chamber of Commerce; Michigan Association of Timbermen; Michigan Chamber of Commerce; Michigan Farm Bureau Family of Companies; Michigan NFIB; Michigan Retailers Association; Michigan Soft Drink Association; Small Business Association of Michigan.

#### CHAMBER OF COMMERCE THE UNITED STATES OF AMERICA, Washington, D.C. February 9, 1999.

Hon. SPENCER ABRAHAM,  
U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR ABRAHAM: As long standing advocates of mandates relief for the private and public sectors, the U.S. Chamber of Commerce strongly supports the legislation that you will be introducing. The Mandates Information Act of 1999.

Recent studies estimate the compliance costs of federal regulations at more than \$700 billion annually and project substantial future growth even without the enactment of new legislation. Congressional mandates impose significant costs on the private sector, particularly small business. These costs are passed along in the form of higher prices and taxes, reduced wages, stunted economic growth, and decreased technological innovation.

The Mandates Information Act builds upon the success of the Unfunded Mandates Reform Act by requiring the Congressional Budget Office (“CBO”) to provide Congress with information on the potential impacts associated with proposed significant mandates on the private sector. This legislation promotes better decision making and greater accountability by providing Congress with information relating to the costs and impacts of its mandates before enacting them and passing the costs on to consumers. It also allows a separate debate and floor vote.

During the last Congress, H.R. 3534, the Mandates Information Act, was passed by the U.S. House of Representatives by a vote of 279-132. Additionally, the analogous bill in the Senate was marked up and approved by the Government Affairs Committee. Unfortu-

nately, the 105th Congress ended before the Senate could vote on the legislation.

Lawmakers have the responsibility to legislate using the most complete and accurate information available. The point-of-order mechanism, coupled with CBO’s analysis under the Mandates Information Act, would help make Congress far more responsive to the burdens created by ill-considered mandates.

The U.S. Chamber of Commerce, the world’s largest business federation representing more than three million businesses of every size, sector, and region, appreciates your effort to make Congress more accountable to small businesses, workers, and consumers through the Mandates Information Act.

Sincerely,

LONNIE P. TAYLOR,  
Senior Vice President.

#### SMALL BUSINESS SURVIVAL COMMITTEE,

Washington, DC, January 27, 1999.

Hon. SPENCER ABRAHAM

U.S. Senate,  
Washington, DC.

DEAR SENATOR ABRAHAM: Any effort to highlight the burden of private-sector mandates on small businesses, workers, and consumers earns the support of the Small Business Survival Committee’s (SBSC’s) 50,000 members.

The Mandates Information Act of 1999 is an important piece of legislation that would provide Congress with the ability to determine the economic impact of mandates by directing the Congressional Budget Office to supply Congress with an analysis of a new mandate’s impact on small businesses, workers, and consumers.

Small businesses bear a disproportionate burden of the costs of federal regulations. The per employee costs of these regulations are usually 80% higher for small businesses when compared to that of large corporations. Ultimately, the costs his employees hard, through lower wages, reduced benefits, and fewer job opportunities and consumers are hurt by high prices and reduced availability of goods and services.

To draw attention to private-sector mandates with annual costs in excess of \$100 million, the Mandates Information Act of 1999 allows any member to raise a “point of order” to ensure the Members of Congress do not ignore the economic impact imposed by their mandates on taxpayers. This provision is an important step in favor of true congressional accountability.

The Small Business Survival Committee strongly support this important piece of legislation and looks forward to working with you to ensure its passage.

Sincerely,

KAREN KERRIGAN,  
President.

[From the Competitive Enterprise Institute,  
Feb. 8, 1999]

#### SO, WHAT WILL THIS UNFUNDED MANDATE COST ME?

(By Clyde Wayne Crews Jr.)

The \$1.77 trillion spending budget President Clinton sent to Congress February 2 tells just part of the story of the Federal government’s reach in the economy. Regulatory mandates placed on Americans increase the costs of government by over a third. Legislation now being debated in the House of Representatives (H.R. 350) could help better control that cost.

Some know the problems of mandates more acutely than others. Back in 1995, governors and other state and local officials—fed up with the federal government’s imposing exceedingly costly environmental and

other mandates on them—revolted. To many state and local officials, every dollar spent on federal priorities, however beneficial and popular, compromised their ability to achieve their own budget priorities. Some even felt they could protect their own local environments without Washington's intervention, thank you very much.

Happy Governors.—The complaints that Washington too often ignored the costs of its mandates were heard. The result was the 104th Congress's Unfunded Mandates Act—the significance of which garnered it the designation "S. 1" in the Senate. The law required cost disclosure for significant mandates, and offered an opportunity to demand explicit votes on the intent to impose those costs.

Unfunded public-sector mandates weren't halted by the Unfunded Mandates Act, of course. But total rules in the federal pipeline impacting state and local governments has dipped 12 percent over the past five years, from 1,317 to 1,161.<sup>1</sup> The real innovation wasn't rule blockage at all, but rather increased congressional, rather than agency, accountability to the public for the impacts of rules.

But full congressional accountability and disclosure remain to be achieved for rules impacting the private sector. For example, agency rules significantly impacting small businesses increased 37% over the past five years, from 686 to 937. Yet Congress remains largely free to ignore the accompanying costs when enacting legislation that will impose many private sector mandates. And if costs become an issue down the line with constituents, its easy to blame the regulatory agencies that write the rules to implement the legislation.

The Mandates Information Act (H.R. 350) vs. Those Other Unfunded Mandates.—One remedy, on which House floor debate will resume February 10, is the bipartisan Mandates Information Act of 1999 (H.R. 350), sponsored by Reps. Gary Condit (D-CA), Rob Portman (R-OH), Jim Moran (D-VA) and Tom Davis (R-VA). Virtually identical to a version that passed the 105th Congress on a 279-132 vote, the bill would extend certain provisions of the Unfunded Mandates Act to mandates on the private sector. H.R. 350 would establish a point of order against any legislation that would impose costs over \$100 million annually, such as mandates impacting wages, consumer prices or small businesses. If raised, the point of order would halt further floor action unless members waive it by a simple majority vote. In other words, should any member object to the imposition of costs on the public, Congress must then explicitly vote on its intent to consider the bill despite its costs—and indirectly vote on its belief that benefits outweigh costs. This approach doesn't necessarily stop any mandate, but it would increase accountability.

A Step Toward Ending Hidden Taxes?—Legislators partial to continuing to shield mandate costs from scrutiny and wiggling out of responsibility, do so at their peril. Off-budget mandates now cost as much as \$700 billion annually. That's an amount about 40 percent the size of the entire federal budget, greater even than pretax corporate profits (\$640 billion in 1996) and almost as large as the combined GNPs of Canada and Mexico (\$542 billion and \$237 billion in 1995).

The Mandates Information Act would help place responsibility for costly lawmaking

squarely back where it belongs—with Congress. Nonetheless, H.R. 350 has raised the ire of some who say the measure will make it difficult to promulgate regulation. What they do not fathom is that it is not supposed to be easy to impulsively impose what amount to massive hidden taxes. The opponents' alarm at the point of order's "gagging" debate is quite misguided: If the simple majority vote to approve worthy, presumably chock-full-of-benefits legislation is there in the first place, then the simple majority to waive the point of order should be there, too. Thus, opponents of H.R. 350's longoverdue focus on costs, who cry "What about benefits?" need to ask themselves that question. Voters aren't stupid, and they will support costly legislation if persuaded those costs are justified, and they will punish those whom they believe stall needed legislation.

Too Easy To Scapegoat Agencies.—Perhaps the real fear of the Mandates Information Act's opponents is the fact that a separate vote to explicitly consider costs weakens political cover. Today, representatives can deny responsibility for regulatory costs when speaking before their small business constituents back home: "Uh . . . Your hardship is the agencies' fault! They're out of control!" That little dodge would stop.

Congress Must Answer for All Costs.—Those who never met a regulation they didn't like, those who always think more rules make sense in the abstract, deserve occasionally to be awakened from their perpetual Sim-City planner mode, just long enough to consider whether a rule really makes sense here on Earth. If even this meager reform is rejected, Congress might just as well take a roll-call vote on a resolution stipulating that: "The public has no business knowing the costs of the regulations that we impose upon them." That way voters will have it made plain to them exactly where they stand in the eyes of those they elected.

The innovation and legacy of the Mandates Information Act is not that it will stop a lot of regulations. It won't. The Mandates Information Act's lasting contribution will be its unique step toward full disclosure, its potential to make Congress more answerable for all the costs of government.

Mr. THOMPSON. Mr. President, today I rise to support the Mandates Information Act of 1999. I am pleased to be an original cosponsor of this legislation, which will make Congress more accountable for the laws it passes. I want to applaud my good friend from Michigan, SPENCE ABRAHAM, for his hard work and leadership on this effort. He has always championed greater accountability and efficiency in our Government.

This legislation is based on a simple premise—that Congress should think carefully and be accountable for passing mandates that impose significant costs on people and limit their freedom. In 1995, we passed the Unfunded Mandates Act to make Congress think twice before imposing new unfunded mandates on state and local government. But Congress also should be concerned about the private sector, especially consumers, workers and small businesses.

This legislation builds on the Unfunded Mandates Reform Act in two ways. First, it will provide Congress with more complete information about the costs of proposed Congressional mandates on the private sector. The

Congressional Budget Office would prepare a "Consumer, Worker, and Small Business Impact Statement" for new private sector mandates in bills reported out of Committee. The Statement would analyze the impacts of Congressional mandates on: (1) consumer prices and the supply of goods and services in the market; (2) worker wages, benefits, and employment opportunities; and (3) the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

Second, to ensure that Congress pays attention to the information, this legislation would establish a point of order, waivable by a simple majority, against legislation containing direct private sector unfunded mandates over the \$100 million threshold established by the Unfunded Mandates Act. This bill does not prohibit legislative mandates; it simply requires Congress to think carefully before deciding whether or not to impose them.

Mr. President, I believe that the public has a right to open, accountable, and efficient government. If Congress or the President wants to take credit for the benefits of a new program, we also should answer for its costs. We can't shrug off our responsibilities just because the economy is good now and we can point to budget surpluses. There has been a large growth in regulatory mandates that simply are not accounted for in budget figures. Federal regulation costs about \$700 billion per year by some estimates. That is about 40 percent of the size of the entire Federal budget. And regulation begins when Congress passes legislation that delegates its lawmaking authority to the Federal agencies.

The truth is that there is no free lunch. While we can see the costs of tax-and-spend programs in the taxes we pay, the costs of regulatory mandates are just as real. We all pay for regulatory mandates through hidden taxes in the form of higher prices, lower productivity and wages, and diminished economic growth and job opportunities.

In particular, the costs of private sector mandates can hit hard on consumers, workers and small businesses. Consumers pay for mandates through higher prices for goods and services. Workers pay through lower wages. And small businesses pay through lower profitability and growth, which in turn means less job opportunities for workers. A 1995 Small Business Administration study found that an average business with less than 20 employees spends about \$5,500 per employee to comply with Federal regulations, while large firms with over 500 employees spend about \$3,000 per employee. While regulatory mandates affect everyone, small businesses have a particularly tough time shouldering them.

I have always said that agencies need to regulate smarter. But before we even reach that step, Congress needs to legislate smarter. Last year, this legislation passed the House, and in the

<sup>1</sup>All figures on numbers of regulations in this document were compiled by CEI from the federal Regulatory Information Service Center's "Unified Agenda of Federal Regulations," various years' editions, for the forthcoming CEI report "Ten Thousand Commandments: A Policymaker's Snapshot of the Federal Regulatory State," 1999 edition.

Senate we reported it out of the Governmental Affairs Committee. On Wednesday, the House passed this legislation again by an overwhelming vote. It is my hope that we can enact it into law this year. The Mandates Information Act will help place responsibility for costly laws at their source—Congress. It's long overdue.

By Mr. GORTON:

S. 428. A bill to amend the Agricultural Market Transition Act to ensure that producers of all classes of soft white wheat (including club wheat) are permitted to repay marketing assistance loans, or receive loan deficiency payments, for the wheat at the same rate; to the Committee on Agriculture, Nutrition, and Forestry.

#### LOAN DEFICIENCY PAYMENT FOR CLUB WHEAT

Mr. GORTON. Mr. President, I rise today to introduce legislation that will restore payment equity to Pacific Northwest producers of club wheat.

Last year, during the middle of the 1998 harvest season, the U.S. Department of Agriculture made a rule change regarding the Loan Deficiency Payment (LDP) club wheat, a member of the soft white wheat subclass. While I applaud USDA for its efforts in providing equal payments for club wheat and soft white wheat, by making the policy change in the middle of the production year, many club wheat producers had already contracted with the lower payment.

In order to address the inequity between the 1998 club wheat LDP contracts, my colleagues and I requested that USDA make the policy retroactive. USDA claimed it does not have the authority to grant retroactivity, and as a result, I have introduced this legislation to provide the agency retroactive authority.

At a time when commodity prices are at an all time low, it is my hope that the LDP inequity for club wheat will be resolved by passage of this legislation. I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 428

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. REPAYMENT RATE FOR MARKETING ASSISTANCE LOANS FOR WHEAT; LOAN PAYMENT RATE FOR LOAN DEFICIENCY PAYMENTS FOR WHEAT.

(a) IN GENERAL.—Section 134(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7234(a)(2)) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(E) in the case of soft white wheat, be uniform for all classes of the wheat, including club wheat.”

(b) APPLICATION.—The amendments made by subsection (a) shall apply beginning with the 1997 crop of wheat.

By Mr. DURBIN (for himself, Mr. KENNEDY, Mr. CLELAND, Mr.

GRAMS, Mr. DASCHLE, Mr. DEWINE, Mr. LAUTENBERG, and Mr. LEVIN):

S. 429. A bill to designate the legal public holiday of “Washington’s Birthday” as “Presidents’ Day” in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy; to the Committee on the Judiciary.

#### THE REDESIGNATION OF WASHINGTON’S BIRTHDAY

Mr. DURBIN. Mr. President, I want to take this opportunity, along with my distinguished colleagues, Senators KENNEDY, CLELAND, GRAMS, DASCHLE, DEWINE, LAUTENBERG, and LEVIN, to reintroduce legislation recognizing the importance of the institution of the Presidency. My legislation would redesignate “Washington’s Birthday” as “Presidents’ Day,” honoring George Washington, Abraham Lincoln, and Franklin Roosevelt. In taking this step, we would honor three of our nation’s most important leaders, Presidents who led our nation through our greatest challenges and crises. In so doing, we would be celebrating the contributions that these and other great Presidents have made to the development of freedom and democracy in our great nation.

Our democracy depends upon the participation of a well-informed electorate—citizens who take their civic responsibilities seriously. However, many Americans appear to have lost confidence in our political system. In the last presidential election, less than half of eligible voters—49 percent—voted. In the 1998 midterm elections, only 36 percent of the voting populace cast their vote to determine the future of our nation. This was the lowest voter turnout since 1942, over 50 years ago. The turnout rate among younger voters is even lower.

Tests administered by the National Assessment of Educational Progress found that almost 60 percent of high school seniors lacked even a basic understanding of American history. These findings indicate that too many Americans feel a sense of alienation from the political process and do not believe that government and political involvement are relevant to their lives.

In this time of cynicism about American politics, we must restore the faith and pride of our citizens in our government. Passage of this legislation will recognize three of our nation’s greatest leaders and the enduring strength of the Office of the Presidency. It will remind all of us—but particularly young people who are our nation’s future leaders—of the important contributions made by Presidents of the United States and the principles on which our nation was founded.

#### ADDITIONAL COSPONSORS

S. 5

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 185

At the request of Mr. ASHCROFT, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 249

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 249, a bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes.

S. 279

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 314

At the request of Mr. BOND, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 314, a bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

S. 315

At the request of Mr. ASHCROFT, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 315, a bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes.

S. 327

At the request of Mr. HAGEL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 327, a bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions.